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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT DAVID SCHOFIELD
and MAGDALENA VAN VEEN

Appeal 2007-2447
Application 10/040,172
Technology Center 2600

Decided: February 5, 2008

Before JOSEPH L. DIXON, MAHSHID D. SAADAT, and
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 17-19, which are all of the claims pending in this application as claims 1-16 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants have invented a communication system that allows using plain telephones while providing access to all functions of the telephone switch (Specification 1). A web server connected to the telephone switch provides control function to the user via an HTTP client application connected to the web server (Spec. 1-2).

Claim 17, which is representative of the claims on appeal, reads as follows:

17. A communication system, comprising:

a telephone;

a telephone switch operative to interact with the telephone and provide a control function to a user of the telephone; and

a web server connected to the telephone switch and operative to provide the control function to the user of the telephone via a web page provided by the web server and accessible by a web browser, wherein one of the web page and the web browser is operatively associated with a calling number of the telephone.

The Examiner relies on the following prior art reference:

Wood	US 6,091,808	Jul. 18, 2000

The rejection of the claims as presented by the Examiner is as follows:

Claims 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood.

We make reference to the Briefs[1] and the Answer for the respective positions of Appellants and the Examiner. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but did not make in the Briefs have not been considered (37 C.F.R. § 41.37(c)(1)(vii)).

We affirm.

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 103. Appellants argue that the teachings of Wood would not have made the claimed feature of "one of the web page and the web browser is operatively associated with a calling number of the telephone" obvious to one of ordinary skill in the art (Br. 11-12). Therefore, the issue turns on whether there is a legally sufficient justification for modifying the disclosures of Wood and if so, whether the teachings of Wood teaches or suggests the claimed subject matter.

FINDINGS OF FACT

The following findings of fact (FF) are relevant to the issue involved in the appeal and are believed to be supported by a preponderance of the evidence.

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[1] Appeal Brief (filed Dec. 20, 2004), Reply Briefs (filed May 18, 2005 and September 21, 2006). We mainly refer to the later filed Reply Brief as it includes substantially same arguments presented in the earlier Reply Brief.

1. Wood relates to telephone call management via a computer network (web) facility which can be remotely accessed by subscribers using web browsers. (Abstract).

2. Wood, as depicted in Figure 1, discloses a telephone subscriber having one telephone coupled to a telephone switch and a web browser coupled to a network. (Col. 3, ll. 20-31).

3. The web facility provides an interface to the subscriber in the form of web pages that enable the subscriber to manage the telephone functions for the telephone. (Col. 4, ll. 32-42).

4. Wood specifically discloses in Figure 3 that by clicking the PERSONAL button 62 the web page manager accesses a personal directory of the subscriber and displays the entries in a conventional scrolling window. (Col. 6, ll. 18-27).

PRINCIPLES OF LAW

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. *See In re Kahn*, 441 F.3d 977, 987-988 (Fed. Cir. 2006), *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991) and *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

"Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said

subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007).

ANALYSIS

Based on our findings related to the teachings of Wood, we disagree with Appellants that only the web page of Wood is operatively associated with the subscriber (Br. 11). In our view, the interpretation used by Appellants to define the claimed term "operatively associated" as "a connection with another" and "in an operative manner" (Br. 14) is too limiting as the claim does not require any type of connection with another device. In that regard, we agree with the Examiner (Ans. 6) that the operative functions argued by Appellants, such as listing the number, are not recited in the claims.

We further disagree with Appellants that the web page for a telephone function in Wood is used based on a calling number of the telephone that is passively, not operatively, associated with the web page via the subscriber (Reply Br. 9). As pointed out by the Examiner (Ans. 5-6), the web manager in Wood accesses a personal directory which contains the name and telephone number of the subscriber, which suggests that the web page is "operatively associated with a calling number of the telephone" (FF 3-4). In that regard, as long as the subscriber is identified by the telephone number it is associated with, we find that the teachings in the prior art has been reasonably interpreted to indicate that the web page is operatively associated with that calling number.

Appellants' arguments in the paragraph bridging pages 9 and 10 of the Reply Brief are aimed at distinguishing the claimed "operatively associated" over the teachings of Wood by attributing specific features to the web browser in connection with the telephone that are not recited in the claims. For example, the proximity of the telephone with respect to the user, as asserted by Appellants to be absent in Wood (*id.*), is not mentioned in the claims. Therefore, we conclude that in rejecting the claims based on what the reference teaches and suggests to one of ordinary skill in the art, the Examiner's reliance on the telephone system disclosed in Wood is reasonable and supports a prima facie case of obviousness.

CONCLUSION

In view of the analysis above, we find that the Examiner's rationale and reasoning presented in support of the rejection are convincing of the obviousness of claims 17-19. Therefore, we will sustain the Examiner's 35 U.S.C. § 103 rejection of these claims as being unpatentable over Wood.

DECISION

The decision of the Examiner rejecting claims 17-19 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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